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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,856	11/14/2001	Rainer Hellenbrandt	5095-59	9290
7590 02/12/2004				
Thomas C. Pontani, Esq. Cohen, Pontani, Lieberman & Pavane Suite 1210 551 Fifth Avenue New York, NY 10176		EXAMINER ALIE, GHASSEM		
		ART UNIT PAPER NUMBER		
		3724 8		

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,856

Applicant(s)

HELLENBRANDT, RAINER

Examiner

Ghassem Alie

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, two axially cutting knives having end cutting edges directed toward one another, the two annular knives arranged at an acute angle to one another, a front view of the shearing device frame, and a front view of the running stock having a front/first crop and the rear crop as set forth in claims 1 and 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to under 37 CFR 1.71 because it is not clear to one ordinary skill in the art how the shearing device frame is movable relative to the guide between a low basic position to a high position and how the end cutting edges of the two axially cutting knives are directed toward one another. Are there two actuating mechanism responsible for the actuation of the end cutting edges and the shearing device frame? Is there one actuating mechanism responsible for actuating the end cutting edges and the shear device frame? The front guide part 10 already guides the rolling stock 50 towards the three rear guides 31, 32, 33. Therefore, it is not clear what is the purpose of moving shearing device frame from the lower basic position to a high position. Does the movement of the shearing device from lower position to the high position serve any special purpose? See page 7, lines 5-20.

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3. The amendment filed 12/15/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: added Fig. 5 and its description on page 7, line 6 of the specification is not supported by the original disclosure. The original disclosure fails to teach a raise/lower mechanism and a cutting position mechanism for the annular knives. Therefore, the amendment to the specification and the newly submitted Fig. 5 introduce new matter into the specification and they will not entered.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1 and 2 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claims 1 and 2, the disclosure fails to teach how the end cutting edges are directed toward one another and how the shearing device frame is moving from a lower basic position to a high position. It is also not clear how many actuating means are responsible for actuating the end cutting edges and the shearing device frame. The disclosure also fails to teach what is the purpose of moving the shearing device frame from the lower position to a higher position.

Comment

6. In view of the issues under 35 U.S.C. 112, first paragraph, the objection to the specification under 35 U.S.C 132 and 37 CFR 1.71, and the drawing objections, the allowability of the subject matter cannot be indicated at this time. However, with respect to the amended claims 1 and 2, the prior art does not teach that the annular knives are movable to a cutting position in both the basic position and the high position of the shearing device frame as set forth in the amended claims 1 and 2.

Response to Amendment

7. Applicant's arguments filed 12/15/03 have been fully considered and applicant's assertion that the cutting blades of the instant application are directed toward one another in the same manner as the referred reference (U.S. Patent No. 3,491,640) in the specification is not persuasive. The original specification does not teach or express that the mechanism for directing the cutting blades toward one another is the same mechanism as taught by the referred reference (U.S. Patent No. 3,491,640).

The obviousness-type double-patenting rejection of claims 1 and 2 is withdrawn. Because, the copending application No. 09/991,875 to Panzar in view of Poran (3,491,640) fails to teach that the annular knives are movable to a cutting position in both the basic position and the high position of the shearing device frame as set forth in the amended claims 1 and 2.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Polhall et al. (4,080,859), Morgan (2,881,835) teach a shearing device including two axially cutting annular knives.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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GA/ga

February 6, 2004

A handwritten signature in black ink, appearing to read 'AS', with a long, sweeping diagonal line extending upwards and to the right.

Allan N. Shoap
Supervisory Patent Examiner
Group 3700